

ORIGINALFILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII**United States District Court**

for the

DISTRICT OF HAWAII

JUL 10 2006

at 3 o'clock and 35 min. P.M.
SUE BEITIA, CLERK**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender***(Probation Form 49, Waiver of Hearing is Attached)*

Name of Offender: KALEI AURELIO LOPEZ

Case Number: CR 03-00430HG-01

Name of Sentencing Judicial Officer: The Honorable Helen Gillmor
Chief U.S. District Judge

Date of Original Sentence: 5/4/2004

Original Offense: Count 2: Unauthorized Control of a Propelled Vehicle, in violation
of 18 U.S.C. § 13 and Hawaii Revised Statutes § 708-835,
a Class C felonyCount 3: Unauthorized Entry Into a Motor Vehicle, in violation of
18 U.S.C. § 13 and Hawaii Revised Statutes § 708-836.5, a
Class C felonyOriginal Sentence: Twenty-one (21) months imprisonment as to Counts 2 and 3, such
terms to run concurrently and with any state court sentence, to be
followed by three (3) years supervised release as to Counts 2 and
3, such terms to run concurrently, with the following special
conditions: 1) That the defendant participate in a substance abuse
program, which may include drug testing at the discretion and
direction of the Probation Office; 2) That the defendant is prohibited
from possessing any illegal or dangerous weapons; 3) That the
defendant provide the Probation Office access to any requested
financial information; 4) That the defendant participate in a mental
health assessment and participate in a mental health program if
deemed necessary, at the discretion and direction of the Probation
Office; and 5) That the defendant is prohibited from the possession
and use of alcohol.

Type of Supervision: Supervised Release

Date Supervision Commenced: 3/2/2005

PETITIONING THE COURT

[✓] To modify the conditions of supervision as follows:

Mandatory Condition: *That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision.*

CAUSE

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1. General Condition	The subject's urine specimen submitted on 6/7/2006 tested positive for marijuana and cocaine.

On 3/2/2005, the subject began his term of supervision under the U.S. Probation Office, District of Hawaii. Shortly thereafter, the subject tested positive for methamphetamine on 3/5/2005 and 5/2/2005. As Your Honor may recall, no adverse action was taken against the subject to allow him to participate in intensive outpatient substance abuse treatment at Malama Recovery Services, Waianae, Hawaii, and submit to random drug testing at the highest frequency. On 8/2/2005, the subject successfully completed the intensive outpatient program at Malama Recovery Services with no known violations or positive drug tests.

This report concerns the following:

On 6/7/2006, the subject submitted a urine specimen at the U.S. Probation Office which tested presumptive positive for cocaine and marijuana. The specimen was forwarded to Scientific Testing Laboratories (STL), Inc., for confirmation purposes. When confronted about the presumptive positive test results, the subject admitted to abusing those illicit drugs and acknowledged that it was an inappropriate response to the stress he was experiencing as a result of being evicted from a clean and sober residence and terminated from his employment. The subject stated that he was "lost" and requested further substance abuse treatment to address his relapse and instability within the community. On 6/14/2006, STL confirmed that the 6/7/2006 urine specimen tested positive for cocaine and marijuana.

Based on his willingness to undergo an increased treatment regimen, the subject was instructed to seek placement in an inpatient treatment program. On 6/13/2006, the subject entered the Victory Outreach inpatient treatment program located in Ewa Beach, Hawaii. On 6/15/2006, the program director for Victory Outreach informed the U.S. Probation Office that the subject had been admitted into their

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(10/94)

6-month inpatient program. The program director agreed to provide quarterly status reports detailing the subject's adjustment in the facility and progress as to his treatment curriculum which includes work therapy, substance abuse treatment, life skills classes, and bible study. In considering the identified measures being implemented to address his recent relapse, it is recommended that the Court take no action against the subject and allow him to continue treatment at Victory Outreach.

Additionally, in light of U.S. vs. Stephens, it is recommended that the Court amend the mandatory Violent Crimes Control Act drug testing condition as noted above. The modification of this mandatory condition will provide the Probation Office with the necessary tools to monitor the subject and to protect the community.

Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives his right to a hearing and to assistance of counsel. The subject agrees to the modification of the conditions of supervised release. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections to the modification.

Respectfully submitted by,



CARTER A. LEE
U.S. Probation Officer

Approved by:



PETER D. YOSHIHARA
Supervising U.S. Probation Officer

Date: 6/20/2006

THE COURT ORDERS:

- ☒ The Modification of Conditions as Noted Above
☐ Other



HELEN GILLMOR
Chief U.S. District Judge

7.6.06
Date

PROB 49
(5/96)

United States District Court

District of Hawaii

Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

- ☐ To extend the term of supervision for _____ years, for a total term of _____ years.
☒ To modify the conditions of supervision as follows:

Mandatory Condition: *That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision.*

Witness:



CARTER A. LEE
U.S. Probation Officer

Signed:



KALEI LOPEZ
Supervised Releasee

6/7/06

Date